PRIZE COURTS, 64. This principle is not applicable, however, where the title has vested in the neutral buyer before shipment. Thus when enemy goods were consigned to a neutral buyer as his property and at his risk, they were not confiscated. *The Herman*, 4 Rob. 228. Similarly, enemy goods shipped to a neutral buyer by an agent representing him in the enemy country have been held to lose their enemy character. See *The San Jose Indiano and Cargo*, 2 Gall. 267, 291. This was held true even when an enemy firm acted as agent or shipper for the neutral buyer. See *The Portland*, 3 Rob. 41–44. Perhaps all decisions as to goods from a belligerent country with title in a neutral are not entirely reconcilable. See 7 MOORE, DIGEST OF INTERNATIONAL LAW, §§ 1183, 1184, 1185. But it would seem that a doctrine concerning the passing of title to ships and goods on ships *in transitu* can hardly support the confiscation of goods title to which is claimed to have passed before shipment.

INTERSTATE COMMERCE — DISCRIMINATORY RATE — BURDEN OF PROOF. — Shippers of the town of Rockport, Illinois, filed a complaint before the Interstate Commerce Commission alleging that the defendant's rate on certain goods from Rockport to St. Louis was "unduly discriminatory in violation of sections 2 and 3" of the act to regulate commerce. The rate was increased shortly after the filing of the complaint. *Held*, that the burden is on the defendant to show that no unjust discrimination exists. *Burson Knitting Co.* v. *C. M. & St. P. Ry. Co.*, 42 Int. Com. Rep. 739.

At common law there is no underlying principle which will enable one to determine in a given issue on whom the burden of proof shall fall other than the general one of fairness based on experience. See 4 WIGMORE, EVIDENCE, § 2486. The Commerce Commission follows the courts in this matter. See JUDSON, INTERSTATE COMMERCE, 3 ed., § 440. Were the act to regulate commerce silent on the question, fairness would seem to demand that the carrier on increasing its rate should not be called upon to show that no one or no locality of possible hundreds was discriminated against. It should not have to prove a general negative. Even if a specific locality complains of such rate there is no reason why the complainant should not be left to establish its case. There are no presumptions arising from the long standing of the previous rate. *People ex rel. N. Y. C. & H. R. R. Co.* v. *P. S. Comm.*, 215 N. Y. 241, 109 N. E. 252. Nor is there any presumption of wrong arising from a changed rate. *I. C. C.* v. *Chicago Gt. Western Ry. Co.*, 209 U. S. 108, 119. The practice of the Commission itself has been in accordance with these holdings. *Holmes & Co.* v. *So. Ry. Co.*, 8 Int. Com. Rep. 561. See JUDSON, INTERSTATE COMMERCE, 3 ed., § 440. But the amendment of 1910 of section 15 of the Act expressly provides that the burden of showing an increased rate is "reasonable" shall be on the carrier. But it would seem that "reasonable" must be distinguished from "discriminatory." For that the word "reasonable" has not a scope sufficiently broad to include discrimination appears from the classification and division of objections to rates in section 1, providing against "unreasonable" rates, section 2 providing against "discriminatory" rates, and section 3 providing against "preferential" rates. *Wickwire Steel Co.* v. *N. Y. C. R. Co.*, 30 Int. Com. Rep. 415, 420.

LEGACIES AND DEVISES — UNCERTAINTY — DEVISE TO UNBORN BASTARD OF SPECIFIED FATHER. — The testator in a codicil set aside a share of his estate "in case he should leave any other male child by the said Mary Ann," with whom he was unlawfully cohabiting. There was a male child *en ventre sa mère* at the testator's death. *Held*, that the bastard does not take. *In re Homer*, 115 L. T. R. 703.

A gift by deed or by will to future bastards of either the donor or a third person has in the past been held void. *Medworth* v. *Pope*, 27 Beav. 71; *Metham* v. *Duke of Devon*, 1 P. Wms. 529. See *Blodwell* v. *Edwards*, Cro. Eliz. 509, 510. The reason seems to be the policy against the encouragement of

immorality. See Lord St. Leonards in *In re Connor*, 2 Jo. & La T. 456, 459–60. But at least one exception has since been established in the case of a testamentary gift by the putative father, on the ground that since the gift dates from death the begetting of bastards is not encouraged. *Occleston* v. *Fullalove*, L. R. 9 Ch. App. 147, 162; *In re Hastie's Trusts*, 35 Ch. Div. 728. Here a difference was taken upon another ground. If the bastard was described as the child of the mother only, it was ascertainable and could take. *Gordon* v. *Gordon*, 1 Mer. 141; *Evans* v. *Massey*, 8 Price 22. But, if the description specified the father as well as the mother, it was said that the child must show a reputation as begot by the particular father. *Wilkinson* v. *Adam*, 1 Ves. & B. 422. For without such reputation the child was *filius nullius* and the law would not inquire into the scandal. See 2 JARMAN, WILLS, 6 Eng. ed., 1765. Hence, if the child is *en ventre sa mère* at the testator's death the gift would fail, since a child must be *in esse* during father's life to acquire the necessary reputation. *Earle* v. *Wilson*, 17 Ves. 529. See *Blodwell* v. *Edwards*, Cro. Eliz. 509, 510; *Gordon* v. *Gordon*, 1 Mer. 141, 152. *Contra*, *In re Connor*, 2 Jo. & La T. 456, 460. See *Occleston* v. *Fullalove*, L. R. 9 Ch. App. 147, 164. However, the fiction of *filius nullius* is in these days an unstable pediment for any doctrine. The result should rather be rested on the practical difficulty of proof, a question of degree to be determined in each case. See *Occleston* v. *Fullalove*, L. R. 9 Ch. App. 147, 158. But this difficulty assumes that the testator desires such proof. Usually however he states his paternity simply as matter of belief and not by way of limitation. See 2 JARMAN, WILLS, 6 Eng. ed., 1770, 1781.

NATURALIZATION — FILIPINOS. — A native Filipino applied to be made an American citizen under R. S. XXX, § 2169, as amended in 18 STAT. AT L. 318, and under the Act of June 29, 1906, 34 STAT. AT L., c. 3592, § 30. *Held*, that the petition be granted. *In the matter of Marcus Solis*, U. S. Dist. Ct. for Hawaii, Mar. 25, 1916.

A native Filipino applied under the same provisions to be made an American citizen. *Held*, that the petition be denied. *In the matter of Alfred Ocampo*, U. S. Dist. Ct. for Hawaii, Dec. 30, 1916.

Section 2169, which was in force prior to the Act of June 29, 1906, limits the provisions for naturalization to "aliens being free white persons and to aliens of African nativity and to persons of African descent." But § 30 of the Act of June, 1906, provided that "all applicable provisions of the naturalization laws . . . shall apply to and be held to authorize the admission to citizenship of all persons not citizens who owe permanent allegiance to the United States." As the petitioners come within the description, they are entitled to citizenship unless the former section modifies this provision. Being neither expressly repealed nor inconsistent with the Act of June, it must, by the rules of statutory construction, be still in force. *Bessho* v. *U. S.*, 178 Fed. 245. See 1 LEWIS' SUTHERLAND STATUTORY CONSTRUCTION, 2 ed., 461–64. It has been argued, however, that as § 30 does not refer to aliens, and as § 2169 only refers to aliens, it cannot be considered an "applicable" limitation. The wording of the statutes certainly justifies such an argument. But the history of § 30 shows that its purpose was to avoid the difficulty of admitting Porto Ricans to citizenship because they were not aliens, could not renounce allegiance to a foreign sovereign, and were not, therefore, within the Act. To extend the rights of citizenship to all emigrants of our insular possessions regardless of race was clearly not the intention of Congress. So it has been held concerning the limitation of § 2169 on other clauses, with wordings similar to § 30. *In re Alverta*, 198 Fed. 688; *In re Lampitoe*, 232 Fed. 382.

PATENTS — PROCEDURE — WHAT CONSTITUTES AN INTERLOCUTORY DECREE. — In an action on two separate patents, a decree was in favor of the plaintiff as to one patent, with an order for an accounting, but in favor of the de-